



AMENDMENT REPORT

CUSC Proposed Amendment CAP088

Application of Late Payment of Commercial Debts (Interest) Act 1998

The purpose of this report is to assist the Authority in their decision of whether to implement Amendment Proposal CAP088

Amendment Ref	CAP0088
Issue	1.0
Date of Issue	14/09/05
Prepared by	National Grid

I DOCUMENT CONTROL**a National Grid Document Control**

Version	Date	Author	Change Reference
0.1		National Grid	Draft for internal comment
0.2	06/09/05	National Grid	Draft for external comment
1.0	14/09/05	National Grid	Issue to Authority

b Document Location

Nation Grid Website:

<http://www.nationalgrid.com/uk/indinfo/cusc>

c Distribution

Name	Organisation
The Gas and Electricity Markets Authority	Ofgem
CUSC Parties	Various
Panel Members	Various
National Grid Industry Information Website	

II CONTENTS TABLE

I DOCUMENT CONTROL.....	2
a National Grid Document Control	2
b Document Location	2
c Distribution.....	2
II CONTENTS TABLE	3
1.0 SUMMARY AND RECOMMENDATION.....	4
2.0 PURPOSE AND SCOPE OF THE REPORT	4
3.0 THE PROPOSED AMENDMENT	5
4.0 IMPLEMENTATION AND TIMESCALES	6
5.0 IMPACT ON THE CUSC	6
6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES	6
7.0 IMPACT ON CUSC PARTIES	6
8.0 IMPACT ON CORE INDUSTRY DOCUMENTS	7
9.0 WORKING GROUP ALTERNATIVE AMENDMENT	7
10.0 VIEWS AND REPRESENTATIONS	8
11.0 SUMMARY OF PANEL MEMBERS VIEWS.....	9
12.0 NATIONAL GRID RECOMMENDATION.....	9
13.0 COMMENTS ON DRAFT AMENDMENT REPORT.....	10
ANNEX 1 – AMENDMENT PROPOSAL FORM	11
ANNEX 2 – PROPOSED TEXT TO MODIFY CUSC.....	14
Part A - Text to give effect to the Proposed Amendment.....	14
Part B - Text to give effect to the Alternative Amendment	15
ANNEX 3 – COPIES OF REPRESENTATIONS RECEIVED TO CONSULTATION	16
ANNEX 4 – COPIES OF COMMENTS RECEIVED ON THE PROPOSED	
AMENDMENT REPORT	25

1.0 SUMMARY AND RECOMMENDATION

- 1.1 Ofgem published a conclusions document on best practice guidelines for gas and electricity network operator credit cover in February 2005. CAP088 seeks to better facilitate the Applicable CUSC Objectives by addressing and codifying one element of these guidelines, the application of the Late Payment of Commercial Debts (Interest) Act 1998.
- 1.2 CAP088 was proposed by National Grid and submitted to the CUSC Amendments Panel for consideration at their meeting on 20th May 2005. The Panel determined that a Working Group should be established to consider this proposal. The Working Group presented their Final Report to the July Amendments Panel, which also contained details of a Working Group Alternative Amendment. The Panel agreed that the Working Group had fulfilled its Terms of Reference and that it was appropriate for CAP088 to proceed to wider industry consultation by National Grid.
- 1.3 The Consultation Paper for CAP088 was published by National Grid on 5th August 2005, placed on the CUSC website and copies sent to Core Industry Document Owners and CUSC Parties. Responses were invited by close of business on 2nd September 2005.
- 1.4 National Grid received a total of 7 responses to the consultation for CAP088.

National Grid Recommendation

- 1.5 National Grid proposed CAP088 and believes that the Original Amendment Proposal better facilitates the Applicable CUSC Objectives by enabling it to more efficiently discharge its obligations under the Act and the Transmission Licence through ensuring that appropriate incentives are in place for Users to pay in accordance with prevailing contractual terms. Ensuring the appropriate incentives to pay debts are in place in the market also, in National Grid's view, facilitates competition. Whilst the assessment of CAP088 was undertaken against the Applicable Objectives, in the view of National Grid it implements recognised industry best practice in the form of the Late Payment of Commercial Debts (Interest) Act. This Act was also highlighted in the best practice guidelines as potentially, and without prejudice, being the appropriate instrument in these circumstances. Consequently, the view of National Grid is that CAP088 will be to the benefit of the industry, and approval of the Original CAP088 Proposal is therefore recommended to better facilitate the Applicable Objectives.
- 1.6 National Grid also believes that the Working Group Alternative better facilitates the Applicable CUSC Objectives with regard to efficiency and facilitation of competition, but not to the same extent as the Original Proposal.
- 1.7 National Grid believes that, should the Authority approve either the Original Proposal or the Working Group Alternative Amendment, CAP088 should be implemented 10 business days after the Authority decision.

2.0 PURPOSE AND SCOPE OF THE REPORT

- 2.1 This Amendment Report has been prepared and issued by National Grid under the rules and procedures specified in the Connection and Use of System Code (CUSC) as designated by the Secretary of State. It addresses

issues relating to the application of the Late Payment of Commercial Debts (Interest) Act 1998.

- 2.2 Further to the submission of Amendment Proposal CAP088 (see Annex 1) and the subsequent wider industry consultation that was undertaken by National Grid, this document is addressed and furnished to the Gas and Electricity Markets Authority (“the Authority”) in order to assist them in their decision whether to implement Amendment Proposal CAP088.
- 2.3 This document outlines the nature of the CUSC changes that are proposed. It incorporates National Grid’s recommendations to the Authority concerning the Amendment. Copies of all representations received in response to the consultation have been also been included and a ‘summary’ of the representations received is also provided. Copies of each of the responses to the consultation are included as Annex 3 to this document.
- 2.4 This Amendment Report has been prepared in accordance with the terms of the CUSC. An electronic copy can be found on the National Grid website, at <http://www.nationalgrid.com/uk/indinfo/cusc>

3.0 THE PROPOSED AMENDMENT

Background

- 3.1 Ofgem published a conclusions document on best practice guidelines for gas and electricity network operator credit cover in February 2005, which included a recommendation that interest on late payments should be charged in a manner consistent with the Late Payment of Commercial Debts (Interest) Act 1998.

The Proposed Amendment

- 3.2 CAP088 therefore seeks to address and codify Ofgem’s recommendation by amending Clause 6.6.5 of CUSC, and National Grid as Proposer believes this would better facilitate the applicable CUSC objectives, through ensuring the appropriate incentives are in place for all Users to pay in accordance with prevailing contracts.
- 3.2 Clause 6.6.5 of CUSC currently states that a rate of 4% over base rate, accrued daily, can be levied on any CUSC party that fails to pay on the due date any amount properly due. This Amendment is proposed in order to allow the application of the rate detailed within the Application of Late Payment of Commercial Debts (Interest) Act 1998 which is given effect to via a statutory instrument. The rate is set via the statutory instrument twice a year on 30 June and 31 December, and is applicable for the following six-month periods i.e. 1 July to 31 December and 1 January to 30 June respectively. National Grid believes the application of the rate detailed within the Act would provide the most appropriate incentive to ensure that payments are made in accordance with prevailing contracts, as currently it would allow for interest to be levied on late paid items at a rate equal to a specified base rate plus eight percentage points per annum, and is in line with best practice.

Working Group Discussions

- 3.3 It was clarified that the Application of Late Payments of Commercial Debts (Interest) Act 1998 was given effect to via a statutory instrument and the rate

currently set out in the statutory instrument is 8% as a mandatory figure. There were two views in the Working Group as to what application of the Late Payment statutory instrument meant in terms of the associated interest rate. National Grid believed that it is most appropriate to comply with the rate as detailed in the instrument (i.e. 8% currently) as this increases the transparency as to how the rate is derived and provides an approach consistent with the Network Operator Best Practice Guidelines, and hence better facilitates the Applicable CUSC Objectives.

- 3.4 Some of the Working Group believed that it was possible to develop an Alternative, which was linked to the application of a proportion of the rate as set out in the Statutory Instrument.

4.0 IMPLEMENTATION AND TIMESCALES

- 4.1 National Grid proposed in the CAP088 Consultation Document that, should the Authority approve either the Original Proposal or the Working Group Alternative Amendment, CAP088 should be implemented 10 business days after the Authority decision. Two parties responded to this aspect of the consultation, with both respondents agreeing that National Grid's recommendation was appropriate.

5.0 IMPACT ON THE CUSC

- 5.1 CAP088 requires amendments to Section 6 (General Provisions) and to Section 11 (Interpretation and Definitions) of the CUSC.
- 5.2 The text required to give effect to the Proposed Amendment is contained as Part A of Annex 2 of this document.

6.0 ASSESSMENT AGAINST APPLICABLE CUSC OBJECTIVES

- 6.1 National Grid believes that the CAP088 Original Proposal better facilitates the Applicable CUSC Objectives by enabling it to more efficiently discharge its obligations under the Act and the Transmission Licence through ensuring that appropriate incentives are in place for Users to pay in accordance with prevailing contractual terms.
- 6.2 National Grid also believes that the Working Group Alternative described in section 9.1 of this report better facilitates the Applicable CUSC Objectives with regard to efficiency and facilitation of competition, but not to the same extent as the Original Proposal.

7.0 IMPACT ON CUSC PARTIES

- 7.1 In the event that any CUSC Party fails to pay amounts properly due past the due date, then, following the implementation of the CAP088 Original Proposal, they would be liable for interest on the overdue amount at the rate of interest set for the relevant period as the statutory interest rate for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

8.0 IMPACT ON CORE INDUSTRY DOCUMENTS

- 8.1 Neither the CAP088 Original Proposal, nor the Working Group Alternative Amendment, will have an impact on Core Industry Documents or other industry documents.

9.0 WORKING GROUP ALTERNATIVE AMENDMENT

Description of Alternative Amendment

- 9.1 The Working Group proposed a Working Group Alternative Amendment in which the level of interest charged was a set percentage of the rate detailed in the Act. In order to provide a safeguard to ensure that this Working Group Alternative Amendment did not result in a reduction of existing arrangements it further proposed the inclusion of the current arrangements (Base Rate +4%) as a minimum level. Under the Working Group Alternative Amendment the interest rate levied would be:-
- Base Rate, plus 75% of interest rate detailed in Act (Interest Rate detailed in Act is currently 8%)
 - Minimum level set at Base Rate plus 4%
- 9.2 This was considered by a significant minority of the Working Group to be a more appropriate and proportionate rate, which could be increased by a future Amendment if the need arose. However, the majority of the Working Group remained in favour of the Original Proposal.

Impact of Alternative Amendment on CUSC

- 9.3 The Working Group Alternative Amendment would require changes to Section 6 (General Provisions) and to Section 11 (Interpretation and Definitions) of the CUSC. The text required to give effect to Alternative Amendment is contained as Part B of Annex 2 of this document.

Assessment Against Applicable CUSC Objectives

- 9.4 Some members of the Working Group considered that the Working Group Alternative Amendment would better facilitate the applicable CUSC objectives to a greater extent than the Original Proposal and would enable National Grid to more easily and efficiently discharge its obligations under the Act and the Transmission Licence and fulfill its obligations to facilitate competition in the generation and supply of electricity, and some of those proposing the Working Group Alternative did not believe that the case had been made sufficiently for the rate to be set at 8%. National Grid does acknowledge that the Working Group Alternative would provide an increased incentive for any CUSC party to make payments in accordance with prevailing contracts, over the current CUSC baseline.
- 9.5 However, the majority of the Working Group, including National Grid, considered that the intent of CAP088 was to align the CUSC process with industry best practice, as identified in the best practice guidelines. The CAP088 Original Proposal, which specifies application of the rate detailed within the Late Payment of Commercial Debts (Interest) 1998 Act, provides sharper incentives on parties to pay in a timely manner, and therefore better facilitates the Applicable CUSC Objectives to a greater extent than the Working Group Alternative Amendment.

Impact on CUSC Parties

- 9.6 In the event that any CUSC Party fails to pay amounts properly due past the due date, then, following implementation of the CAP088 Working Group Alternative Amendment, they would be liable for interest on the overdue amount at the greater of 4% over Base Rate or Base Rate plus 75% of the amount by which the statutory interest rate for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998 exceeds the Base Rate.

10.0 VIEWS AND REPRESENTATIONS

- 10.1 This Section contains a summary of the views and representations made by consultees during the consultation period in respect of the Proposed Amendment and the Working Group Alternative Amendment.

Views of Panel Members

- 10.2 No responses to the CAP088 consultation document were received from Panel Members.

View of Core Industry Document Owners

- 10.3 No responses to the CAP088 consultation document were received from Core Industry Document Owners.

Responses to Consultation

- 10.4 The following table provides an overview of the representations received. Copies of the representations are attached as Annex 3.

Reference	Company	Supportive	Comments
CAP088-CR-01	British Energy	Yes	Both better facilitate objectives but prefers original
CAP088-CR-02	Centrica	Yes	Both better facilitate objectives but prefers original
CAP088-CR-03	Corus	No	Should be considered with other proposals
CAP088-CR-04	E.ON UK	Yes	Has sympathy with alternative but prefers original
CAP088-CR-05	Gaz de France	No	Case for change not yet proven
CAP088-CR-06	Scottish Power	Yes	Supports Working Group Alternative Amendment
CAP088-CR-07	Zest4	No	Sees no reason for change

- 10.5 The respondent in CAP088-CR-01 (British Energy) believes that both the Original Proposal and the Working Group Alternative Amendment would better facilitate the Applicable CUSC Objectives, but that the Original is superior. British Energy consider that the Original Proposal has the merit that the Prescribed Rate is based on an existing recognised approach while the Working Group Alternative Amendment could be seen as being somewhat arbitrary, but express disappointment that, in their view, National Grid were not able to share the extent of the problem presented by late payment more readily with the Working Group members.

- 10.6 The respondent in CAP088-CR-02 (Centrica) also believes that both the Original Proposal and the Working Group Alternative Amendment would better facilitate the Applicable CUSC Objectives, but prefers the Original. Centrica believe that the Original Proposal creates the most appropriate incentive properties to encourage timely bill payments which should help to reduce the incidents of late payment and thereby better facilitate competition.
- 10.7 The respondent in CAP088-CR-03 (Corus) has some reservations about the proposal, particularly on the grounds that it may adversely affect competition in generation and especially in supply. Corus believe that new entry may be further inhibited and exit hastened, particularly for smaller players, and therefore recommend that no final decision on any credit cover proposal, including this one, should be made by Ofgem until all proposals from the various network operators have been tabled and duly considered.
- 10.8 The respondent in CAP088-CR-04 (E.ON UK) supports the Original Proposal, agreeing that all Users should be subject to appropriate incentives to ensure that they pay in accordance with prevailing contracts. However, E.ON UK believe that it is unclear whether a lesser rate could achieve a similar reduction in late payments, and therefore have sympathy with the Working Group Alternative Amendment. On balance though, E.ON UK concurs that the higher interest rate will provide a greater incentive to pay on time.
- 10.9 The respondent in CAP088-CR-05 (Gaz de France) does not currently support either the Original Proposal or the Working Group Alternative Amendment. Gaz de France consider that the CAP088 Consultation Document does not clearly state the history behind the need for change and is lacking information about the level and frequency of breach currently experienced, therefore making it difficult to be sure that either the Original Proposal or the Working Group Alternative Amendment would better facilitate the Applicable CUSC Objectives.
- 10.10 The respondent in CAP088-CR-06 (Scottish Power) supports the Working Group Alternative Amendment. Scottish Power believe that the Alternative Amendment gives a better balance of incentive to pay and is not overly onerous, and would better facilitate achievement of the Applicable CUSC objectives (efficiency and facilitation of competition).
- 10.11 The respondent in CAP088-CR-07 (Zest4) can see no reason to support either the proposed or alternate amendment. Zest4 consider there to be no historical evidence to argue for this more onerous requirement and without seeing any such evidence believe that it is difficult to see why a change has been proposed.

11.0 SUMMARY OF PANEL MEMBERS VIEWS

- 11.1 The Panel considered CAP088 at its meeting on 29th July 2005 and agreed the Proposal should proceed to industry consultation.

12.0 NATIONAL GRID RECOMMENDATION

- 12.1 National Grid recommends approval of the CAP088 Original Proposal, which should be implemented 10 business days after the Authority's decision.

- 12.2 National Grid believes that the Working Group Alternative Amendment also better facilitates the Applicable CUSC Objectives, but not to the same extent as the Original. In the event that it was approved by the Authority, National Grid would also recommend implementation 10 business days after the Authority's decision.

13.0 COMMENTS ON DRAFT AMENDMENT REPORT

- 13.1 National Grid received 1 response following the publication of the draft Amendment Report. The following table provides an overview of each representation. Copies of the representations are attached as Annex 4.

Reference	Company	Summary of Comments
CAP088-AR-01	Scottish Power	Re-iteration of support for Amendment Proposal

Annex 1 – Amendment Proposal Form

CUSC Amendment Proposal Form	CAP:088
Title of Amendment Proposal: Application of late payments of Commercial Debts (Interest) Act 1998	
Description of the Proposed Amendment (mandatory by proposer): Clause 6.6.5 states the rate of 4% over base rate, accrued daily, can be levied on any CUSC party that fails to pay on the due date any amount properly due. This amendment is proposed in order to allow the application of the late payment of Commercial Debts (Interest) Act 1998. This would act as an additional incentive to ensure that payments are made in accordance with prevailing contracts, as it allows for interest to be levied on late paid items at a rate equal to a specified base rate plus eight percentage points per annum. This rate is set twice a year on 30 June and 31 December each year. This rate is applicable for the following six-month periods i.e. 1 July to 31 December and 1 January to 30 June respectively. It is recommended that this amendment goes to a working group.	
Description of Issue or Defect that Proposed Amendment seeks to Address (mandatory by proposer): The amendment seeks to address and codify Ofgem's recommendations within its Network Operator Best Practice guidelines.	
Impact on the CUSC (this should be given where possible): Amendment to Clause 6.6.5	
Impact on Core Industry Documentation (this should be given where possible): None	
Impact on Computer Systems and Processes used by CUSC Parties (this should be given where possible): None	
Details of any Related Modifications to Other Industry Codes (where known): None	
Justification for Proposed Amendment with Reference to Applicable CUSC Objectives** (mandatory by proposer): An amendment to the CUSC as outlined above will enable National Grid to more easily and efficiently discharge its obligations under the Act and the Transmission Licence and fulfill its obligations to facilitate competition in the generation and supply of electricity.	

Details of Proposer: Organisation's Name:	National Grid Transco
Capacity in which the Amendment is being proposed: (i.e. CUSC Party, BSC Party or "energywatch")	CUSC Party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	Paul Murphy NGT 019260656330 paul.murphy@ngtuk.com
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	Toby Thornton NGT 01926656384 toby.thornton@ngtuk.com
Attachments (Yes/No): If Yes, Title and No. of pages of each Attachment:	

Notes:

- Those wishing to propose an Amendment to the CUSC should do so by filling in this "Amendment Proposal Form" that is based on the provisions contained in Section 8.15 of the CUSC. The form seeks to ascertain details about the Amendment Proposal so that the Amendments Panel can determine more clearly whether the proposal should be considered by a Working Group or go straight to wider National Grid Consultation.
- The Panel Secretary will check that the form has been completed, in accordance with the requirements of the CUSC, prior to submitting it to the Panel. If the Panel Secretary accepts the Amendment Proposal form as complete, then he will write back to the Proposer informing him of the reference number for the Amendment Proposal and the date on which the Proposal will be considered by the Panel. If, in the opinion of the Panel Secretary, the form fails to provide the information required in the CUSC, then he may reject the Proposal. The Panel Secretary will inform the Proposer of the rejection and report the matter to the Panel at their next meeting. The Panel can reverse the Panel Secretary's decision and if this happens the Panel Secretary will inform the Proposer.

The completed form should be returned to:

Richard Dunn
Panel Secretary
Commercial Frameworks
National Grid Company plc
NGT House
Warwick Technology Park
Gallows Hill
Warwick, CV34 6DA
Or via e-mail to: CUSC.Team@uk.ngrid.com

(Participants submitting this form by email will need to send a statement to the effect that the proposer acknowledges that on acceptance of the proposal for consideration by the Amendments Panel, a proposer which is not a CUSC Party shall grant a licence in accordance with Paragraph 8.15.7 of the CUSC. A Proposer that is a CUSC Party shall be deemed to have granted this Licence).

3. Applicable CUSC Objectives** - These are defined within the National Grid Company Transmission Licence under Section C10, paragraph 1. Reference should be made to this section when considering a proposed amendment.

Annex 2 – Proposed Text to modify CUSC

Part A - Text to give effect to the Proposed Amendment

Change Marked Version

Amend CUSC Paragraph 6.6.5 as follows:

- 6.6.5 Subject to Section 4, if any **CUSC Party** fails to pay on the due date any amount properly due under the **CUSC** or any **Bilateral Agreement** such **CUSC Party** shall pay to the **CUSC Party** to whom such amount is due interest on such overdue amount from and including the date of such failure to (but excluding) the date of actual payment (as well after as before judgement) at the ~~rate of 4% over Base Rate Prescribed Rate for the time being and from time to time.~~
Interest shall accrue from day to day.

Add new definition to CUSC Section 11 as follows:

“Prescribed Rate”

the rate of interest set for the relevant period as the statutory interest rate for the purposes of the Late Payment of Commercial Debts (interest) Act 1998;

Clean Version

Amend CUSC Paragraph 6.6.5 as follows:

- 6.6.5 Subject to Section 4, if any **CUSC Party** fails to pay on the due date any amount properly due under the **CUSC** or any **Bilateral Agreement** such **CUSC Party** shall pay to the **CUSC Party** to whom such amount is due interest on such overdue amount from and including the date of such failure to (but excluding) the date of actual payment (as well after as before judgement) at the **Prescribed Rate**.
Interest shall accrue from day to day.

Add new definition to CUSC Section 11 as follows:

“Prescribed Rate”

the rate of interest set for the relevant period as the statutory interest rate for the purposes of the Late Payment of Commercial Debts (interest) Act 1998;

Part B - Text to give effect to the Alternative Amendment**Change Marked Version**

Amend CUSC Paragraph 6.6.5 as follows:

6.6.5 Subject to Section 4, if any **CUSC Party** fails to pay on the due date any amount properly due under the **CUSC** or any **Bilateral Agreement** such **CUSC Party** shall pay to the **CUSC Party** to whom such amount is due interest on such overdue amount from and including the date of such failure to (but excluding) the date of actual payment (as well after as before judgement) at the ~~rate of 4% over Base Rate Prescribed Rate for the time being and from time to time.~~ Interest shall accrue from day to day.

Add new definition to CUSC Section 11 as follows:

“Prescribed Rate”

the greater of 4% over Base Rate or the rate of interest set for the relevant period as the statutory interest rate for the purposes of the Late Payment of Commercial Debts (interest) Act 1998 provided that in calculating this rate the per cent per annum figure over the official dealing rate shall be 75% of the per cent per annum set as such statutory interest rate;

Clean Version

Amend CUSC Paragraph 6.6.5 as follows:

6.6.5 Subject to Section 4, if any **CUSC Party** fails to pay on the due date any amount properly due under the **CUSC** or any **Bilateral Agreement** such **CUSC Party** shall pay to the **CUSC Party** to whom such amount is due interest on such overdue amount from and including the date of such failure to (but excluding) the date of actual payment (as well after as before judgement) at the **Prescribed Rate**. Interest shall accrue from day to day.

Add new definition to CUSC Section 11 as follows:

“Prescribed Rate”

the greater of 4% over **Base Rate** or the rate of interest set for the relevant period as the statutory interest rate for the purposes of the Late Payment of Commercial Debts (interest) Act 1998 provided that in calculating this rate the per cent per annum figure over the official dealing rate shall be 75% of the per cent per annum set as such statutory interest rate;

Annex 3 – Copies of Representations Received to Consultation

This Annex includes copies of any representations received following circulation of the Consultation Document (circulated on 5th August 2005, requesting comments by close of business on 2nd September 2005).

Representations were received from the following parties:

No.	Company	File Number
1	British Energy	CAP088-CR-01
2	Centrica	CAP088-CR-02
3	Corus	CAP088-CR-03
4	E.ON UK	CAP088-CR-04
5	Gaz de France	CAP088-CR-05
6	Scottish Power	CAP088-CR-06
7	Zest4	CAP088-CR-07

Reference	CAP088-CR-01
Company	British Energy

-----Original Message-----

From: Capener John [mailto:john.capener@british-energy.com]

Sent: 31 August 2005 15:57

To: Paradine, Lindsey

Cc: Phillips Steve

Subject: BE Response to CAP088

Lindsey,

Thank you for the opportunity to comment on the above CUSC Amendment Proposal.

We consider that the original and WG alternative proposal would each separately better facilitate the Applicable CUSC Objectives as compared to the present baseline but that the original is superior.

It is a pity National Grid were not able to share the extent of the problem presented by late payment more readily with the WG members as this would in all probability have avoided the need for a WG alternative. The original Amendment Proposal has the merit that the Prescribed Rate is based on an existing recognised approach while the WG Alternative could be seen as being somewhat arbitrary.

Regards

John Capener

Head of Transmission and Trading Arrangements

British Energy Power & Energy Trading

Reference	CAP088-CR-02
Company	Centrica

The Centrica logo features the word "centrica" in a bold, blue, lowercase sans-serif font. A small orange circle is positioned above the letter 'i'.

taking care of the essentials

Lindsey Paradine
Commercial Frameworks
National Grid Company plc
National Grid Transco House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Centrica Energy
Millstream East,
Maidenhead Road,
Windsor,
Berkshire SL4 5GD

Tel. (01753) 431052
Fax (01753) 431150
www.centrica.com
Our Ref.
Your Ref.
15 November 2018

Dear Lindsey,

CUSC Amendment Proposal CAP088 – Application of late payments of Commercial Debts (Interest) Act 1998

Centrica welcomes this opportunity to comment on this Amendment Proposal. Centrica believe both the original and working group alternative amendment better facilitate the Applicable CUSC Objectives. However, Centrica's preference is for the original proposal to be approved.

Centrica believes that the original proposal creates the most appropriate incentive properties to encourage timely bill payments. National Grid explained that there are a number of instances of late payments by CUSC signatories. Centrica believe this amendment proposal should help to reduce the incidents of late payment and thereby better facilitate competition.

Centrica agree the proposed legal text is fit for purpose and the proposed implementation date of 10 working days following the Authority decision.

If you have any questions regarding this response please ring me 01753 431137.

Yours sincerely,

Mark Manley
Contract Manager

Reference	CAP088-CR-03
Company	Corus

CUSC Amendment Proposal CAP088
Application of late payments of Commercial Debts
(Interest) Act 1998

Response by Corus UK Ltd.

Corus has some reservations about this proposal, particularly on the grounds that it may adversely affect competition in generation and especially in supply. New entry may be further inhibited and exit hastened, particularly for smaller players. This proposal should only be accepted if there are concurrent measures that make new entry easier and exit less likely.

We have the following specific observations

- The background to the Act was the need to protect smaller businesses from being paid late by large customers. It is debatable whether the legislators had in mind protecting large players such as National Grid from its customers.
- The present late payment rate of 4% above base rate appears to be substantial remedy and represents a rate nearly double the current base rate. The 4% premium was established in the 1990 MCUSA, and was between a third and a quarter of the then base rate (c. 15%).
- We can understand that NGC would wish to deter habitual late payers but the present proposal of base rate plus 8% seems somewhat harsh in respect of one-off overdue payments which may have resulted from administrative error.
- Although this proposal in isolation is unlikely to be a significant further barrier to new entry, there is no doubt that the business of supply has become riskier and more complicated for a whole series of reasons. The demise of some smaller suppliers has resulted in the game now being played by big boys and we believe that the issue of new entry for smaller, niche suppliers requires attention from regulators.
- We understand that NGC is considering putting forward further proposals on credit cover etc which may ease the burden on small players. We also note that a series of UNC modifications has just been proposed in respect of gas, and no doubt other network operators including electricity DNO's will follow NGC's lead in this respect. It is therefore our recommendation that no final decision on any proposal, including this one, should be made by Ofgem until all proposals from the various network operators have been tabled and duly considered.

SM 2/9/05

Reference	CAP088-CR-04
Company	E.ON UK



Lindsey Paradine
Commercial
National Grid Company plc
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

E.ON UK plc
Westwood Way
Westwood Business Park
Coventry
CV4 8LG
eon-uk.com

Neil Smith
024 7642 4369
neil.c.smith@eon-uk.com

Tuesday 23rd August 2005

Dear Lindsey,

RE: CUSC Amendment Proposal CAP088

We appreciate the opportunity to comment upon this CUSC Amendment Proposal. E.ON UK supports the original Amendment. We agree that all Users should be subject to appropriate incentives to ensure that they pay in accordance with prevailing contracts. Furthermore, we note that as a CUSC Party, late payments received from National Grid will also be subject to these arrangements.

In terms of the two options considered by the Working Group there are clearly advantages and disadvantages attached to each approach. The eight percent interest plus base rate means that the original Amendment is likely to represent a greater incentive for prompt payment, although such a figure may be considered to be draconian. Unfortunately National Grid has been unable to provide evidence that this level of charge will reduce the number of late payments received from Users. As a result it is also unclear whether a lesser rate could achieve a similar reduction in late payments. With this in mind we have sympathy with the Working Group Alternative. However, whilst we believe that both of the solutions better meet the applicable CUSC objectives, we concur with National Grid that the higher interest rate will provide a greater incentive to pay on time.

If you would like to discuss any of the matters raised within our response please don't hesitate to contact me.

Yours sincerely

Neil Smith
Regulatory Analyst
Trading Arrangements
Energy Wholesale
E.ON UK plc

E.ON UK plc
Registered in
England and Wales
No 2366970
Registered Office:
Westwood Way
Westwood Business Park
Coventry CV4 8LG

Reference	CAP088-CR-05
Company	Gaz de France



05 September 2005

**GAZ DE FRANCE ESS (UK)
LTD**

1 City Walk
Leeds
LS11 9DX
United Kingdom

tel: +44 (0)113 306 2000
fax: +44 (0)113 245 1515

www.gazdefrance.co.uk

REGISTERED IN ENGLAND
NO. 2706333

Lindsey Paradine
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CV4 8JY

Dear Lindsay

**RE: Connection and Use of System Code Amendment Proposal
CAP088 – Application of late payment of Commercial Debts
(Interest) Act 1998**

Thank you for the opportunity to respond to this consultation document on the merits of the above amendment proposal.

At this point in time we are not in a position to support either the proposed or alternate amendment. The reason for this is the fact that we are unable to ascertain the full history behind the proposers' requirement to move to a more penal regime and therefore cannot assess the full risk of allowing the existing arrangements to remain. It is therefore difficult to be sure that either amendment would better facilitate the applicable code objectives over the current code baseline.

Gaz de France ESS has always fulfilled our settlement obligations in a timely manner and it therefore follows that we believe the existing 4% over base rate interest level provides the right level of incentive on us to do so. If it were the case that the proposer is finding that the existing level does not provide sufficient incentive for all then perhaps it would have been more appropriate to propose arrangements that would better incentivise persistent offenders, not the whole community. The consultation document does not clearly state the history behind the need for change and is lacking information about the level and frequency of breach currently experienced.



We have concerns that, in circumstances where we have problems beyond our control, a temporary bank service outage that affects timely payment transfers for example, then we would be overly penalised should the amendment proposal be approved. In such circumstances we would have expected that the proposer would have included provision within this proposal to effect some form of 'material doubt' judgement. This issue was discussed within the working group but is not referenced in the consultation documentation or subsequent legal text.

Paragraph 3.2 of the consultation document provides an overview of the expected variations to the 'Prescribed Rate', a twice yearly event occurring on 30th June (applicable 1st July to 31st December) and 31st December (applicable 1st January to 30th June). There is no reference to this fact within the legal text definition to be included within section 11 of the code. In addition there is no reference to the process to be adopted should this amendment be approved by which Users will be informed by NGT of any rate change, including lead-time. This will lead to confusion regarding applicable rates at the time of a payment breach.

In conclusion we would have to state that we are not in support of a move away from the current code provisions based on the information provided within the consultation documentation. We are of the view that the case for change has not yet been proven.

If you require any further information then please do not hesitate to contact me on 0113 306 2122 or 07736 107 020.

Yours sincerely

Barbara Vest
Regulatory Affairs Manager
Gaz de France ESS

Reference	CAP088-CR-06
Company	Scottish Power



Lindsey Paradine
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CVA 8JY

Ref CAP088

Date 30th August 2005

Tel No. 01355 845207
Email: ukelectricityspoc@saic.com

Dear Lindsey,

CUSC Consultation CAP088 - Application of Late Payments of Commercial Debts (Interest) Act 1998

ScottishPower welcomes the opportunity to provide comment on the above consultation on the "Application of Late Payments of Commercial Debts (Interest) Act 1998". This response is submitted on behalf of ScottishPower UK Division which includes the UK energy businesses of ScottishPower, namely ScottishPower Generation Ltd, ScottishPower Energy Management Ltd and ScottishPower Energy Retail Ltd.

ScottishPower supports the Working Group's Alternative Amendment in which the level of interest charged is set at a percentage of the rate detailed in the Act, and as outlined in the CAP088 consultation. We believe that the Alternative Amendment gives a better balance of incentive to pay and is not overly onerous, and would better facilitate achievement of the Applicable CUSC objectives (efficiency and facilitation of competition). However, this is on the basis that the costs of implementation are not significantly more than the Original Amendment (otherwise the Original Amendment may be of better value).

ScottishPower would support the implementation of CAP088 at the most earliest opportunity.

I trust that you will find these comments helpful. Nonetheless, should you require further clarification of any of the above, please do not hesitate to contact me.

Yours sincerely,

Man Kwong Liu

SAIC Ltd.

For and on behalf of: ScottishPower Energy Management Ltd.; ScottishPower Generation Ltd; ScottishPower Energy Retail Ltd.

Reference	CAP088-CR-07
Company	Zest4



Lindsey Paradine
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CV4 8JY

2nd September 2005

**Re: Connection and Use of System Code Amendment Proposal CAP088 –
Application of late payment of Commercial Debts (Interest) Act 1998**

Dear Ms Paradine

We would like to take the opportunity to respond to this consultation.

We can see no reason to support either the proposed or alternate amendment. There appears to be no historical evidence to argue for this more onerous requirement and without seeing any such evidence it is difficult to see why a change has been requested. As a company ZEST4 has always paid on time and we see 4% over base as a very good reason to do so.

If for some reason we were late in paying (e.g. if there was a problem with the bank or instructions go missing) then we would expect to pay the current amount but any more seems to be verging on usury.

In summary we do not support the proposed changes in any way.

Yours sincerely

Christopher Mays
Director

Annex 4 – Copies of Comments received on the Proposed Amendment Report

This Annex includes copies of any representations received following circulation of the Draft Amendment Report (circulated on 6th September 2005, requesting comments by close of business on 13th September 2005).

Representations were received from the following parties:

No.	Company	File Number
1	Scottish Power	CAP088-AR-01

Reference	CAP08-AR-1
Company	Scottish Power



Lindsey Paradine
Commercial
National Grid Company plc
National Grid House
Kirby Corner Road
Coventry
CVA 8JY

Ref CAP088

Date 13th September 2005

Tel No. 01355 845207

Email: ukelectricityspoc@saic.com

Dear Lindsey,

CUSC Consultation CAP088 Amendment Report - Application of Late Payments of Commercial Debts (Interest) Act 1998

ScottishPower welcomes the opportunity to provide comment on the CUSC CAP088 Amendment Report on the "Application of Late Payments of Commercial Debts (Interest) Act 1998". This response is submitted on behalf of ScottishPower UK Division which includes the UK energy businesses of ScottishPower, namely ScottishPower Generation Ltd, ScottishPower Energy Management Ltd and ScottishPower Energy Retail Ltd.

ScottishPower would like re-iterate our support for the Working Group's Alternative Amendment in which the level of interest charged is set at a percentage of the rate detailed in the Act. Although ScottishPower are the only party to provide outright support for the Alternative Amendment amongst responses received to the CAP088 consultation, we believe that the Alternative provides a better balance of incentive to pay and is not overly onerous on smaller market players. On balance, the Alternative Proposal offers an appropriate incentive to encourage payment of monies due and better facilitates achievement of the Applicable CUSC objectives (facilitation of competition and efficiency).

I trust that you will find these comments helpful. Nonetheless, should you require further clarification of any of the above, please do not hesitate to contact me.

Yours sincerely,

Man Kwong Liu

SAIC Ltd.

For and on behalf of: ScottishPower Energy Management Ltd.; ScottishPower Generation Ltd; ScottishPower Energy Retail Ltd.